

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

QLAY CO.,

Plaintiff,

-against-

AMBROSIA OWEN, et al.,

Defendants.

Case No. 1:21-cv-01784 (JLR)
(VF)

MEMORANDUM OPINION
AND ORDER

JENNIFER L. ROCHON, United States District Judge:

On July 12, 2021, the Court entered a default judgment as to liability against the sixty remaining Defendants (“Defaulting Defendants”) in this case. Dkt. 44. The Court subsequently referred this case to Magistrate Judge Freeman for an inquest on damages, Dkt. 45, and on April 30, 2022, the referral was reassigned to Magistrate Judge Figueredo. In the Report and Recommendation (“R&R”) filed on October 16, 2024, Magistrate Judge Figueredo recommended that judgment be entered in favor of Qlay on Qlay’s trademark-counterfeiting and trademark-infringement claims. Dkt. 54 at 21. Magistrate Judge Figueredo further recommended that Qlay be awarded statutory damages of \$50,000 against each Defaulting Defendant, for a total statutory-damages award of \$3,000,000, plus post-judgment interest in an amount to be determined according to the statutory formula set forth in 28 U.S.C. § 1961.

Id. at 20-21.

In reviewing an R&R, a district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court “must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *accord United States v. Male Juvenile (95-CR-1074)*, 121 F.3d 34, 38 (2d Cir. 1997). To accept “uncontested portions of a report and recommendation, ‘a district court need only satisfy itself that there is

no clear error on the face of the record.”” *Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009) (quoting *Reyes v. Mantello*, No. 00 Civ. 8936 (DLC), 2003 WL 76997, at *1 (S.D.N.Y. Jan. 9, 2003)). “A decision is ‘clearly erroneous’ when the reviewing Court is left with the definite and firm conviction that a mistake has been committed.” *Royal Park Invs. SA/NV v. Deutsche Bank Nat'l Tr. Co.*, No. 14-CV-4394 (AJN), 2018 WL 1750595, at *21 (S.D.N.Y. Apr. 11, 2018) (quoting *Courtney v. Colvin*, No. 13 Civ. 02884 (AJN), 2014 WL 129051, at *1 (S.D.N.Y. Jan. 14, 2014)).

Here, the R&R advised Defendants that they had fourteen days from service of the R&R to file any objections and warned that failure to timely file such objections would result in waiver of any right to raise objections to the R&R on appeal. Dkt. 54 at 21. The R&R also cited 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), under which the parties had fourteen days from the service of the R&R to file written objections. *Id.* That time has expired, and no objections have been filed. Accordingly, the parties have waived their right to object to the R&R or obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992) (“[F]ailure to object timely to a report waives any further judicial review of the report.”).

Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the Court has reviewed the R&R for clear error. The Court finds that the report is comprehensive, well-reasoned, and free from clear error. The Court therefore adopts Magistrate Judge Figueredo’s R&R in its entirety.

The Clerk of Court is respectfully directed to enter final judgment in favor of Plaintiff Qlay and award statutory damages in the amount of \$50,000 against each Defaulting Defendant, for a total damages award of \$3,000,000, plus post-judgment interest in an amount

to be determined according to the statutory formula set forth in 28 U.S.C. § 1961. The Clerk of Court is also requested to close the case.

Dated: November 13, 2024
New York, New York

SO ORDERED.


JENNIFER L. ROCHON
United States District Judge